

Remarks

The Office Action at page 2, paragraph 1 raises an objection to claim 28. Claim 28 has now been canceled, rendering this objection moot.

35 U.S.C. §112

The Office Action at page 2, paragraphs 2 and 3 rejects claim 28 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 28 has now been canceled, rendering this objection moot.

35 U.S.C. §103

On page 2 of the Office Action, at paragraph 4, claims 24 to 26, and 28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Speer et al. (US 5,529,833) in view of Inoue et al. (US 5,358,876). Applicants respectfully traverse this rejection to the extent it is applied to the claims as now presented.

With respect to independent claim 24, the applicants have now amended claim 24 to require a pressure sensitive adhesive as the adhesive of the second layer, and onto which the oxygen indicator is disposed as a printed image.

The Applicants submit that no new matter has been added. Support for the amendment of claim 24 can be found at e.g. page 11, lines 11 to 15; page 13, lines 6 to 11; page 15, lines 20 to 24; and page 32, line 19 to page 33, line 2.

The Office Action points to no teaching in Speer et al. of a pressure sensitive adhesive disposed as the adhesive of a second layer, and onto which the oxygen indicator is disposed as a printed image.

The Office Action refers at page 3 to Inoue et al. as teaching that

the oxygen indicator composition includes an adhesive binder (col. 3, line 48 – col.4, line 3) and is printed on a substrate such as the inside of a transparent film having an oxygen barrier property (col. 4, lines 9 – 19).

The adhesive referred to in this portion of Inoue et al. is a binder, such as ethyl cellulose, polyvinyl alcohol or starch that, along with a pigment, can be added to the printing composition in order to ensure the adhesion between the main component/the dyestuff and [the?] substrate. The Office Action points to no portion of Inoue et al. that teaches a pressure sensitive adhesive.

In the present invention, a very useful, and now commercialized application is the use of the patch as a label that is adhered to a surface of a packaging material before the process of verification of oxygen scavenging is carried out by e.g. QC personnel. The pres-

sure sensitive adhesive of the second layer permits the patch as a label to be easily and conveniently adhered to any appropriate part of the packaging material. See e.g. page 7, lines 19 to 21; page 11, lines 11 to 15; and Figure 6 (where a portion of the adhesive layer 63 is in direct contact with a sealant layer 68 of the primary packaging material 60) and also Figures 7 and 8.

On page 4 of the Office Action, at paragraph 5, claim 27 is rejected under 35 U.S.C. §103(a) as being unpatentable over Speer et al. (US 5,529,833) in view of Inoue et al. (US 5,358,876), and further in view of Khalil et al.. Applicants respectfully traverse this rejection to the extent it is applied to the claim 27 as now presented, for the reasons presented above, since claim 27 is dependent on now amended claim 24.

With respect to newly submitted claims 29 to 32, independent claim 29 is directed to a patch like that recited in original claim 24, but in which the oxygen indicator is not co-extensive with the second layer comprising the adhesive.

The Applicants submit that no new matter has been added. Support for the amendment of claim 29 can be found e.g. at Figures 6, 7, and 8, and the supporting text for those drawings found at page 13, line 6 through page 14, line 11, where it can be seen that the adhesive of the second layer extends further laterally than the oxygen indicator, and the oxygen indicator is therefore not coextensive with the adhesive.

This feature allows the patch, e.g. as a label, to be conveniently adhered to a film or package as discussed above with any suitable adhesive, such as a pressure sensitive adhesive or one of the other adhesives disclosed in the present application.

It is not believed that either reference discloses the combination of elements of new claim 29, nor do the cited references in combination suggest such a patch. As pointed out above, the adhesive of Inoue et al. is a binder, such as ethyl cellulose, polyvinyl alcohol or starch that, along with a pigment, can be added to the printing composition. Thus the binder and printing composition are intermixed, such that where the oxygen indicator (in the form of a printed image) is located, adhesive is present, and vice versa. The binder and printing composition of Inoue et al. are by design and purpose coextensive.

With respect to newly submitted claims 33 to 36, independent claim 33 is directed to a patch like that recited in original claim 24, but in which the patch is adapted to be adhered, by means of the adhesive, to a packaging material.

The Applicants submit that no new matter has been added. Support for the amendment of claim 29 can be found at those citations in the specification discussed hereinabove with respect to claims 24 as amended, and claim 29.

Inoue et al. show the oxygen indicator in the form of a tablet, or printed on paper, non-woven fabric sheet or film (col. 3, lines 35 to 41). The oxygen indicator composition can be printed on a package for an oxygen scavenger, or a packaging material or a package container for material to be stored. No teaching has been shown in the Office Action in which the patch is adapted to be adhered, by means of the adhesive (of the second layer of the patch), to a packaging material.

Applicants thus respectfully ask for allowance of the claims as amended.

If any fees are deemed due, please charge same to Deposit Account No. 07-1765.

Respectfully submitted,

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